Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 50277-2416

Pursuant to 37 CFR 1.8(a)(1)(ii) I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via the electronic filing system in accordance with 37 CFR §§1.6(1)(4) and 1.8(a)(1)(i)(C) on the date indicated below and before 9:00 PM PST.	Application Number 10/810,152	Filed March 26, 2004
on __Via Electronic Filing – August 13, 2008__	First Named Inventor Zhen Liu, et al.	
Signature /MalgorzataAKulczycka#50496/		
Typed or printed name __Malgorzata A. Kulczycka__	Art Unit 2166	Examiner Navneet K. Ahluwalia

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
  See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
  (Form PTO/SB/96)

☒ attorney or agent of record.
  Registration number ___50,496___.

☐ attorney or agent acting under 37 CFR 1.34.

  Registration number if acting under 37 CFR 1.34

/MalgorzataAKulczycka#50496/
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Telephone number

08/13/08
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of _2_____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Zhen Liu, et al	Confirmation No.:	8375
Serial No.:	10/810,152	Examiner:	Ahluwalia, Navneet
Filing Date:	March 26, 2004	Art Unit:	2166

For: TECHNIQUES FOR MANAGING XML DATA ASSOCIATED WITH MULTIPLE EXECUTION UNITS

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTACHMENTS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

The following clear errors occur in the currently maintained rejections of the Final Office Action mailed May 29, 2008:

> **I. The Rejections of Claims 1-38 and 50 under 35 USC 103(a) as being unpatentable over Fernandez, in further view of Murthy are based on a clear legal error.**

The rejection of claims 1-38 and 50 is based on a clear legal error. Specifically, the rejection is based on the erroneous legal conclusion that Murthy is available as a 103(a) reference. However, Murthy does not qualify as a 103(a) reference, because:

(a) **Murthy does not qualify as prior art under 102(e)/103** because at the time the present invention was made, Murthy was "owned by the same person or subject to an obligation of assignment to the same person".

(b) **Murthy does not qualify as prior art under any other section of 102** because the present application was filed on March 26, 2004, which is more than two (2) years prior to when Murthy was issued on September 5, 2006. In fact, applicants claim priority of a provisional

patent application 60/531,449, filed on December 19, 2003, which is more than two and a half

(2.5) years prior to when Murthy was issued on September 5, 2006. Therefore, Murthy does not

qualify as prior art to this application.

This legal error has resulted in faulty rejections. Specifically, after conceding that

Fernandez does not teach or suggest the whole subject matter recited in claims 1-38 and 50, the

Office Action used Murthy in combination with Fernandez to support a rejection under 103.

This is clearly an error of law. The rejection based on this legal error should be withdrawn.

II.   The Rejection of claims 39-49 under 35 USC 102(e) as being anticipated by Fernandez et al. is based on a clear factual error.

The rejection of claims 39-49 is based on a clear factual error. The Final Office alleges

that Fernandez anticipates the limitations of claim 39-49. This is incorrect.

Claim 39 recites one or more features that are not described in Fernandez. For example,

Fernandez does not teach or suggest the following express limitations:

"**a method for processing XML data, comprising: receiving information at a first execution unit […] wherein said information comprises an annotation that causes the XML data generated by said first execution unit to be transformed to a canonical form for use by a second execution unit, […] transforming XML data generated by said first execution unit to said canonical form prior to providing said XML data to said second execution unit,** and […] **providing XML data that is transformed to said second execution unit in said canonical form for use in performing work associated with said query execution plan by said second execution unit.**"

In Fernandez, a database administrator generates a view query in the "Relational to XML

Transformation Language" (RXL) format; a composer module takes the view query and produces

an executable query (Fernandez: column 7, lines 2-5); a translator module partitions the

executable query into one or more SQL queries and reads an XML construction part (Fernandez:

column 7, lines 9-12); and an XML generator module merges SQL Stream data with the XML

construction part, and produces a resulting XML document. (Fernandez: column 7, lines 24-26).

However, Fernandez does not describe two XML execution units wherein the first execution unit generates XML data that is then transformed to an XML canonical form so that the XML data may be used by the second execution unit.

Further, Fernandez does not teach or suggest:

"information comprises an annotation that causes the XML data generated by said first execution unit to be transformed to a canonical form for use by a second execution unit; […] wherein said information, without said annotation, would cause said second execution unit to receive from said first execution unit XML data in a first form that cannot be used by said second execution unit."

In Fernandez, the translator module partitions the executable query into one or more SQL queries and reads an XML-construction part (e.g. an XML template) (Fernandez: column 7, lines 9-12). Then, the XML generator module merges SQL Stream data with an XML construction part, and produces a resulting XML document. (Fernandez: column 7, lines 24-26, Abstract) However, Fernandez does not describe information comprising an **annotation** that causes the XML data generated by the first execution unit to be **transformed to a canonical form** for use by a second execution unit wherein the information, which without the annotation would cause the second execution unit to receive from said first execution unit XML data in a first form that cannot be used by said second execution unit."

In addition, Fernandez does not teach or suggest:

"transforming XML data generated by said first execution unit to said canonical form prior to providing said XML data to said second execution unit, wherein transforming XML data comprises removing one or more references to execution unit-specific data that is accessible to the first execution unit but that is not accessible to the second execution unit."

In Fernandez, the translator module receives the executable query, partitions the executable query, transmits the data extraction portion to a relational database, reads in an XML-construction portion and transmits the XML-construction portion to the XML generator module.

The XML generator module receives the XML-construction portion from the translator module, receives tuples in a data stream from the relational database, merges the data stream with the XML-construction portion and generates an XML document, which is constructed by re-nesting the tuples in the result relation and tagging each element. (Fernandez: column 38, lines 13-23) However, Fernandez does not teach or describe "transforming XML data generated by the first execution unit to the canonical form prior to providing the XML data to the second execution unit, wherein the transforming comprises removing one or more references to execution unit-specific data that is accessible to the first execution unit but that is not accessible to the second execution unit." This error has resulted in faulty rejections.

Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to the deposit account 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: August 13, 2008

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